IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR
:::

ORDER

S.B. Civil Writ Petition No.5098/2003-Arvind Pareek VS. State of Rajasthan & Ors.

UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA.

Date Of Order :: 1st November, 2006

PRESENT

REPORTABLE

Hon'ble Mr. Justice Mohammad Rafiq

Mr. Harish Purohit, Advocate, for the petitioner.
Mr. R. Dave, Dy. Government Advocate, for the respondents.

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This writ petition has been filed by the petitioner Arvind Pareek with the prayer that respondents be directed to declare the notification dated 31.7.2003 illegal to the extent it keeps the sportsman who have participated at

International level and National Level Tournaments at the same pedestal. It has also been prayed that the policy laid down under the said notification dated 31.7.2003 be declared illegal being unjust arbitrary and discriminatory to the extent it keeps the sportsman who have simply participated at State Level or National Level Tournaments at par with those sports persons who have not only participated but even won the Medals or acquired a high rank in the State, National or International Tournaments. A further direction may be issued to the respondents to provide additional incentives in the form of bonus marks while making appointment on the post of Physical Training Instructor Grade II as well as Physical Training Instructor Grade III to the sports persons who have participated in International Level Tournaments and also to the sportsman who have won the medals or ranked high in the State, National or International Tournaments.

According to the petitioner, he possesses Bachelor's

Decree in Arts which he obtained in the year 1998 from the Rajasthan Vidhya Peeth (A deemed University), Udaipur and thereafter, he also passed out the qualification of Post-Graduate Disploma in the Physical Education from the Mohanlal Sukhariya University, Udaipur in the year 2001. The petitioner remained Boxing Champion of the State of Rajasthan at least for four years and represented in International Tournaments also. The petitioner also secured Gold Medals at various occasions and the details of which are given in the writ petition.

I have heard Shri Harish Purohit, learned counsel for the petitioner as well as Shri Rameshwar Dave, learned Dy. Government Advocate and perused the record.

Learned counsel for the petitioner submitted that according to criteria adopted by the respondents they are only providing 15 bonus marks to all the candidates, although the circular dated 10.3.2000 provides that higher

marks be given to the Sports person who have won medals. However, the respondents have only implemented their circular dated 31.7.2003, which provides that 10 bonus marks shall be given to the persons who have participated in State Level Tournaments and 15 bonus marks shall be awarded to the persons who have participated in the National Level Tournaments subject to the rider that the marks should be given only on the basis of one certificate which is best in the category. According to the petitioner such a policy laid down by the respondents is arbitrary and discriminatory inasmuch as it seeks to treat unequals equally and hence, the same is liable to be declared illegal. It has therefore prayed that the writ petition may be allowed.

On the other hand, Shri Rameshwar Dave, learned Dy. Government Advocate argued that the policy of the Government as contained in circular dated 31.7.2003 is to provide bonus marks to all those who have participated in the State Level and National Level competition and not

necessarily to only those who have won medals therein. He argued that when the policy is to give maximum 15 marks, there cannot be further increase of such number of marks just because in some isolated cases candidates have participated in International Tournaments and won medals. So for as circular dated 10.3.2000 is concerned, this only gave the suggestion that a separate category for International Tournaments should also be added in the circular extending benefit of bonus marks, but finally when the circular was issued on 31.7.2003, there were only two categories, namely, State and National and the benefit of bonus marks are available only on the basis of this circular. He therefore argued that the writ petition may be dismissed.

I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and perused the record.

It is essentially a matter of policy for the Government to decide whether or not to give any bonus marks on the basis of participation in sports tournaments and if the Government decides to give such benefits, it is also the prerogative of the State to extend such benefits on certain prescribed conditions. This policy is intended to promote sports and give incentive and encouragement to those who participate in the sports and resultantly somewhat leg behind in the academics. In extending the benefit of bonus marks to all those who participate in State and National Tournaments and not just to those who win medals. Object of the policy appears to be to boost participation in such sports meets and cover a larger section and more number of candidates. The policy however is the domain of the Government and not of the courts. If the Government has decided to broadly categorize the sports persons in two classes, namely, those who participate in State Level Tournaments and those who participate at the National Level Tournaments, whether or not there should be a third

category is exclusively for the Government to decide. What should be the extent of the total bonus marks and outer limit for awarding such marks has also to be decided by the Government. If the Government has provided that the candidate would be entitled to the maximum 15 marks on the basis of best of the certificates produced by him, the court by its judicial fiat cannot require it to increase such limit or provide for a separate category. The outer limit of the marks appears to have been fixed on the rational of ensuring that the element of merit in the competition is not completely eliminated and the incentive is confined to a reasonable limit. In my considered view, this Court in its extra ordinary jurisdiction under Article 226 of the Constitution of India cannot interfere in such policy matter.

In the result, the writ petition is dismissed with no order as to costs.

(MOHAMMAD RAFIQ). J

c.p.goyal/-